

SENATE BILL 44
By Fowler

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 39, relative to registration and monitoring of certain offenders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-39-106(c), is amended by deleting the following words and punctuation:

; provided, that the TBI or a local law enforcement agency may release relevant information deemed necessary to protect the public concerning a specific sexual offender who is required to register pursuant to this chapter.

and by substituting instead the following words and punctuation:

; provided, however, a district attorney general, the TBI and/or a local law enforcement agency shall release relevant information deemed necessary to protect the public concerning a specific sexual offender who is required to register pursuant to this chapter; provided further, however, release of such information must be undertaken in accordance with the provisions of Section 2 of this act and the rules promulgated pursuant thereto. Nothing contained within this act shall be construed to prevent any state or local law enforcement officer or agency from providing public notification concerning any person, who poses a danger, under circumstances other than those specifically addressed by the provisions of this act or from providing notification directly to any prior victim of a sexual offender.

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SECTION 2. Tennessee Code Annotated, Title 40, Chapter 39, Part 1, is amended by adding the following as a new section immediately following Section 40-39-106, and by renumbering subsequent sections accordingly:

(a) The sex offender treatment board, created by Tennessee Code Annotated, Section 39-13-704, shall promulgate rules prescribing uniform guidelines, policies, and procedures to govern:

- (1) Evaluation of a registered sexual offender's risk of re-offense; and
- (2) Release of registry information, concerning such offender, necessary to notify and protect the public.

Such rules shall be promulgated in accordance with the uniform administrative procedures act, Tennessee Code Annotated, Title 4, Chapter 5, and shall take effect on January 1, 1998. In promulgating such rules, the board shall strive to achieve a reasonable balance between an offender's right of privacy and the public's right to personal safety and security from criminal victimization and harm. Such release of information shall not reveal the identity of any victim of a sexual offender.

Utilizing the guidelines, policies, and procedures set forth in such rules, the district attorney general for an offender's place of residence and/or the district attorney general for the offender's place of employment shall evaluate the offender's risk of re-offense. Prior to any such evaluation, notice shall be mailed to the offender's reported residential address inviting the offender to submit comments and respond to questions. **If** as a result of such evaluation the district attorney(s) general deems the offender's risk of re-offense to be low, **then** there shall be no release of registry information other than the notification required by Tennessee Code Annotated, Sections 40-39-106(a) and 40-39-106(b). **If** as a result of such evaluation the district attorney(s) general deems the offender's risk of re-offense to be moderate, **then** the district attorney(s) general, the TBI and/or the local law enforcement agency shall release information directly to appropriate

organizations and entities which may reasonably be expected to experience contact with the offender under circumstances which could prove hazardous to individuals served, supervised or employed by, or belonging to, such organizations and entities. Such organizations and entities may include, but not necessarily be limited to, employers, recreational facilities, religious organizations, residential facilities, schools, youth organizations, retail establishments and child care institutions. **If** as a result of such evaluation the district attorney(s) general deems the offender's risk of re-offense to be high, **then**, in addition to release of information directly to such appropriate organizations and entities, the district attorney(s) general, the TBI and/or the local law enforcement agency shall release information directly to individuals who may be reasonably expected to experience contact with the offender under circumstances which could prove hazardous. Such individuals may include, but not necessarily be limited to, the offender's neighbors, co-workers, social contacts, customers, and clients.

(b) The rules shall identify factors to be considered by the district attorney(s) general in evaluating a sexual offender's risk of re-offense as well as guidelines for the district attorney(s) general to use in weighing such factors. Such factors shall include, but not necessarily be limited to:

(1) Conditions of release that minimize the risk of re-offense, such as probation or parole supervision; community supervision; counseling, therapy or treatment; or a home situation which provides guidance and supervision;

(2) Physical conditions that minimize the risk of re-offense, such as advanced age or debilitating illness;

(3) Criminal history factors, such as:

(A) Conduct characterized by repetitive and compulsive behavior;

(B) Whether the offender served the maximum sentence;

(C) Whether the offender selected a child as a victim;

(D) The relationship between the offender and the victim;

(E) Whether the offense involved a weapon, violence, or infliction of serious bodily injury; and

(F) The number, date and nature of prior offenses;

(4) The offender's psychological or psychiatric profile;

(5) The offender's response to treatment;

(6) The offender's recent behavior while confined or under supervision in the community as well as recent behavior in the community following service of sentence; and

(7) Any recent threats issued by the offender against persons or any expressions of intent to commit additional crimes.

(c) In January 1999, and at least biennially thereafter, the sex offender treatment board shall review implementation of evaluation and notification guidelines, policies and procedures and shall consider such revisions as may be necessary and desirable.

SECTION 3. Tennessee Code Annotated, Section 40-39-102(3)(A), is amended by inserting the following language as a new, appropriately designated item immediately following Item (vi) and by renumbering subsequent items accordingly:

() Rape of a child, under §39-13-522;

SECTION 4. Tennessee Code Annotated, Section 40-39-102, is amended by designating the current language as subsection "(a)" and by adding the following new language, to be designated as subsection "(b)":

(b) Registration, monitoring and notification requirements, procedures and policies contained within this chapter and within rules promulgated pursuant thereto shall also apply to persons convicted of the offenses identified within this subsection; and therefore, in order to effectuate such purpose, as used in this chapter the term "sexual offense" shall also include:

(1) The commission of any act that, on or after November 1, 1989, constituted the criminal offense of:

(A) False imprisonment of a minor, under §39-13-302, (except when committed by a parent of such minor);

(B) Kidnapping of a minor, under §39-13-303, (except when committed by a parent of such minor);

(C) Aggravated kidnapping of a minor, under §39-13-304, (except when committed by a parent of such minor); and

(D) Especially aggravated kidnapping of a minor, under §39-13-305, (except when committed by a parent of such minor); or

(2) The commission of any act that, prior to November 1, 1989, constituted the criminal offense of:

(A) Kidnapping a child under §39-2-303, (except when committed by a parent of such minor), [repealed]; or

(B) Aggravated kidnapping of a minor, under §39-2-301, (except when committed by a parent of such minor), [repealed].

SECTION 5. Tennessee Code Annotated, Section 40-39-107(c), is amended by inserting the following language as a new, appropriately designated subdivision immediately following subdivision (1) and by redesignating subsequent subdivisions accordingly:

() Has complied with any evaluation and treatment requirements imposed pursuant to the provisions of Title 39, Chapter 13, Part 7;

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. For purposes of promulgating rules, this act shall take effect on becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on January 1, 1998.